

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MARDELL McGEE SMITH, #31023-044,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 05-473-DRH
)	
RANDY DAVIS,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

HERNDON, District Judge:

Plaintiff, formerly an inmate in the Federal Prison Camp in Marion Illinois, brings this action to challenge the Bureau of Prisons's ("BOP") regulations regarding assignment in a Community Corrections Center ("CCC"). The Court previously converted the habeas corpus petition to a civil action pursuant to the Administrative Procedures Act (APA), 5 U.S.C. § 551 *et seq.* See *Richmond v. Scibana*, 387 F.3d 602, 605-06 (7th Cir. 2004), and the Court also granted his motion to proceed *in forma pauperis*.

Plaintiff has named Randy Davis as the defendant in this action. However, in an action under the APA, the United States of America is the appropriate defendant. See 5 U.S.C. § 702.

IT IS HEREBY ORDERED that the **UNITED STATES OF AMERICA** is **SUBSTITUTED** as Defendant in this action.

IT IS FURTHER ORDERED that Defendant **DAVIS** is **DISMISSED** from this action without prejudice.

IT IS FURTHER ORDERED that in all future pleadings, the title of this case shall be "*Mardell McGee Smith, Plaintiff, vs. United States of America, Defendant.*"

IT IS FURTHER ORDERED that Plaintiff shall complete and submit a USM-285 form for the **ATTORNEY GENERAL of the UNITED STATES** and the **UNITED STATES ATTORNEY for the SOUTHERN DISTRICT OF ILLINOIS** within **THIRTY (30) DAYS** of the date of entry of this Memorandum and Order. The Clerk is **DIRECTED** to send Plaintiff **TWO (2)** USM-285 forms with Plaintiff's copy of this Memorandum and Order. **Plaintiff is advised that service will not be made on a defendant until Plaintiff submits a properly completed USM-285 form for that defendant.**

The Clerk is **DIRECTED** to prepare a summons for the **UNITED STATES OF AMERICA**. The Clerk shall forward the summons, USM-285 forms submitted by Plaintiff, and sufficient copies of the complaint to the United States Marshal for service.

The Clerk is **FURTHER DIRECTED** to prepare a copy of the summons, a copy of the complaint, and a copy of this Order to be served by the United States Marshal on the **ATTORNEY GENERAL of the UNITED STATES**.

The United States Marshal is **DIRECTED** to serve the original summons and complaint on the **UNITED STATES ATTORNEY for the SOUTHERN DISTRICT OF ILLINOIS**, and a copy of the summons and complaint on the **ATTORNEY GENERAL of the UNITED STATES**.

IT IS FURTHER ORDERED that Plaintiff shall serve upon the United States Attorney for the Southern District of Illinois, a copy of every further pleading or other document submitted for consideration by this Court. He shall include, with the original paper to be filed with the Clerk of the court, a certificate stating the date that a true and correct copy of any document was mailed to the United States Attorney. Any paper received by a district judge or magistrate which has not been filed with the Clerk or which fails to include a certificate of service will be disregarded by the Court.

IT IS FURTHER ORDERED that pursuant to Local Rule 72.1(a)(2), this cause is referred

to a United States Magistrate Judge for further pre-trial proceedings.

IT IS FURTHER ORDERED that this entire matter be referred to a United States Magistrate Judge for disposition, as contemplated by Local Rule 72.2(b)(2) and 28 U.S.C. § 636(c), *should all the parties consent to such a referral.*

Plaintiff is under a continuing obligation to keep the Clerk and each opposing party informed of any change in his whereabouts. This shall be done in writing and not later than seven (7) days after a transfer or other change in address occurs.

IT IS SO ORDERED.

DATED: October 23, 2006.

/s/ David RHerndon
DISTRICT JUDGE